

REMARKS

In response to Examiner 35.U.S.C.103a rejection of claims 21, 22, 24-25 over Alexander (US.6177931) in view of Ballantyne (US.5867821) and Peifer (US.5987519), and claims 23 and 26 over Alexander, Ballantyne, Peifer and Hill (US.5857155), Applicants amend independent claims 21 and 24 to distinguish patentably over cited references. In particular the invention is defined more particularly among other things such that "... the patient or promotional group being determined automatically by software for group analysis overlay that monitors patient sensor or sensor interface to process patient attribute in either group by comparing patient attribute with associated attribute stored in the database."

Additionally regarding Alexander, Applicants respectfully disagree with Examiner that Alexander inherently discloses "personal biological sensor." In fact notwithstanding Examiner's argument to the contrary, Alexander, which merely teaches Electronic Programming Guide for television, actually neither discloses nor suggests any personal biological sensor or any other biomedical application or service, as required by Applicants' invention.

Additionally regarding Ballantyne, Applicants respectfully disagree with Examiner that Ballantyne discloses "transducer." In fact notwithstanding Examiner's argument to the contrary that "the PCS serves as the transducer", Ballantyne, which merely teaches patient care system (PCS), actually neither discloses nor suggests any transducer, particularly one that is

micromachined and coupled to a diagnosed patient for measuring or monitoring an organic material of the patient, as required by Applicants' invention.

Additionally regarding Peifer, Applicants respectfully disagree with Examiner that Peifer discloses patient diagnosis that is "adapted" to personal biological sensor signal measurement or monitoring. In fact notwithstanding Examiner's argument to the contrary that "the diagnostic measurement represented by the [patient] information", Peifer, which merely teaches telemedicine data encapsulation, actually neither discloses nor suggests any patient diagnosis that is adapted to personal biological signal measurement or monitoring, as required by Applicants' invention.

Additionally regarding Hill, Applicants respectfully disagree with Examiner that Hill discloses "promotion video stream." In fact notwithstanding Examiner's argument to the contrary, Hill, which merely teaches GPS communication system, actually neither discloses nor suggests any promotion video stream particularly one comprising biomedical expertise message for clinical diagnosis that is contextually mapped to patient group, as required by Applicants' invention.

Accordingly for foregoing reasons, Applicants respectfully submit that Examiner fails to satisfy *prima facie* burden of proof to establish legally that the cited references individually or in combination teach or suggest all claim limitations.

Moreover, Applicants respectfully submit that Examiner mis-applies the cited references because such references are not properly combinable to reject Applicants' invention as being obvious because such references cover non-analogous arts. In this regard Applicants respectfully submit that at the time of filing Applicants' invention one of ordinary skill in television electronic programming guides (Alexander) or GPS communication (Hill) would not reasonably have been motivated, without any explicit suggestion otherwise to do so, to combine such non-medical technology with medical services (Ballantyne) or telemedicine (Peifer).

In particular, Alexander's SYSTEMS AND METHODS FOR DISPLAYING AND RECORDING CONTROL INTERFACE WITH TELEVISION PROGRAMS, VIDEO, ADVERTISING INFORMATION AND PROGRAM SCHEDULING INFORMATION only relates to television systems and electronic programming guides, but not to any patient diagnosis or other biomedical application, nor more particularly to any micro-machined personal biological sensors or transducers for adaptive diagnosis.

In particular, Ballantyne's METHOD AND APPARATUS FOR ELECTRONICALLY ACCESSING AND DISTRIBUTING PERSONAL HEALTH CARE INFORMATION AND SERVICES IN HOSPITALS AND HOMES only relates to distribution of medical services and electronic health records, but not to any interactive digital television or set-top system, nor more particularly to any micro-machined personal biological sensors or transducers for adaptive diagnosis.

In particular, Peifer's TELEMEDICINE SYSTEM USING VOICE VIDEO AND DATA ENCAPSULATION FOR COMMUNICATING MEDICAL INFORMATION BETWEEN CENTRAL MONITORING STATIONS AND REMOTE PATIENT MONITORING STATIONS only relates to telemedicine systems, but not to any interactive digital television or set-top system, nor more particularly to any micro-machined personal biological sensors or transducers for adaptive diagnosis.

In particular, HILL's METHOD AND APPARATUS FOR GEOGRAPHIC BASED CONTROL IN A COMMUNICATION SYSTEM only relates to GPS communications, but not to any patient diagnosis or other biomedical application, nor more particularly to any micro-machined personal biological sensors or transducers for adaptive diagnosis.

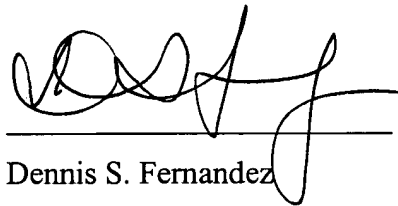
Applicants respectfully remind Examiner that one cannot merely pick-and-choose among variously non-analogous pieces of art in particular to collect non-biomedical and biomedical references in a retrospective attempt to reconstruct and hence deprecate Applicants' invention as being apparently obvious now but only with the unfair benefit of having clear yet inappropriate hindsight.

Moreover Applicants respectfully submit that upon considering the inter-disciplinary subject matter of Applicants' invention as a whole, one of ordinary skill in the biomedical art at the time of filing would not have reasonably considered combining with interactive digital television systems, set-top box apparatus, or even micromachined transducers or sensors to automate patient diagnosis, particularly as now claimed by Applicants, using software for

group analysis overlay that monitors patient sensor or sensor interface to process patient attribute in patient or promotional groups by comparing patient attribute with associated attribute stored in the database.

Applicants respectfully request that Examiner *please* allow claims at this time (also kindly note that this case has been pending in the PTO for over 8 years ;)

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dennis S. Fernandez', written over a horizontal line.

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